



**CITY OF CUPERTINO**

**REQUEST FOR QUALIFICATIONS**

**FOR**

**GRANT DEVELOPMENT AND  
ADMINISTRATION SERVICES**

January 15, 2016

OFFICE OF THE DIRECTOR OF PUBLIC WORKS  
CITY HALL • 10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
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## 1. DESCRIPTION

The City of Cupertino invites Statements of Qualifications (SOQ) submittals from qualified firms to provide grant research, development, and administration services to the City.

Types of programs and projects for which grant funding may be pursued are listed below. Grant assistance for projects or work other than the types listed may also be sought.

- Public Infrastructure
  - Accessibility enhancements
  - Infrastructure maintenance, expansion, repair, and construction
  - Public building expansion, improvement, and construction
  - Traffic operations enhancements
  - Transportation infrastructure maintenance and improvements
- Sustainability
  - Energy efficiency improvements
  - Environmental initiatives and education
  - Green infrastructure planning and demonstration projects
  - Habitat restoration/preservation
  - Resource recovery
  - Technology upgrades
  - Transportation demand management
  - Water conservation
- Recreation/Community Services
  - Library service enhancements
  - Parks and trail improvements and construction
  - Public safety enhancements
  - Recreation, education, youth, senior, life-long learning, health & well-being programs
- Planning/Community Development
  - Bicycle, pedestrian, and Complete Streets planning and/or enhancements
  - Community and economic development
  - Cultural and fine arts programs
  - Historic facilities preservation/restoration
  - Program-level master planning and studies

To view a copy of the City of Cupertino current Capital Improvement Program and budget go to this web address: <http://www.cupertino.org/index.aspx?page=176>.

The City intends to review Statements of Qualifications received and create a list of firms that are deemed prequalified to provide any or all of the services included here. The listed firms will be considered prequalified to provide services for approximately two years.

## **2. SUBCONSULTANTS**

The City has strong interest in the quality of subconsultants that the lead consultant may choose to hire for assistance. The City is committed to securing high quality services provided by experienced, capable practitioners that will ensure success.

If subconsultants will be used to provide the services outlined in this RFQ, provide their resume(s), principal staff, and qualifications relative to their individual discipline.

## **3. SCOPE OF SERVICES**

The City is seeking to create an on-call list of consultants to provide grant assistance, including research, development, and administration services, on an as-needed basis. Projects for which the City may seek grant support could involve planning, improving or expanding public infrastructure, sustainability programs, recreation & community services, and planning & community development.

A detailed scope of services will be developed with the selected consultant team on a project-by-project basis.

Tasks may include, but are not limited to:

### **1. GRANT OPPORTUNITY EVALUATION**

Perform a Funding Needs Analysis – Working with multiple departments within the City, perform an initial organizational needs assessment to identify potentially grant fundable projects and programs.

### **2. GRANT RESEARCH**

Perform Grant Funding Research - Conduct research to identify grant resources including, but not limited to, federal, state, quasi-public, and private agencies and organizations that may support the City's funding needs and priorities as identified by the Funding Needs Analysis. On a regular basis and when requested provide the City with summaries of potential funding opportunities. Summaries should include, but not be limited to, name of agency or organization, critical

dates and timelines related to the specific grant program, eligibility assessment, a brief program summary, including constraints and requirements of the program, and the level of funding available.

On-call grant research – In addition to the areas listed above, other types of projects may also be identified through the Funding Needs Analysis process and by City staff throughout the duration of the contract. The scope of work may include researching grant opportunities identified by the City.

### 3. GRANT APPLICATION DEVELOPMENT

Provide Grant Proposal/Application Development services – Develop and author professional quality, competitive proposals and applications to support grant requests. Tailor submittals to satisfy the requirements of the specific granting agency or program while considering scoring criteria to optimize the success of the grant request. Other tasks may include the preparation of organizational background statements, letters of intent and various formal and informal communications appropriate for participating in competitive funding programs.

### 4. GRANT ADMINISTRATION

Furnish Grant Administration Services – Assemble all required submittal packages to support the grant process, including, but not limited to, Request for Authorizations and Final Invoices. The City or other consultants may provide some materials for the packages.

Submit reimbursement invoices and monitor project expenses and revenue received from granting agencies. Perform periodic project reporting as required by the granting agency. Provide support as needed for audit and other official inquiries and requests for information. Monitor grant funded work progress and ensure overall grant compliance.

Perform determinations as needed for the awarded grant. These may include Disadvantaged Business Enterprise availability for specific trades, labor compliance, and federal-aid specific requirements. Lead and/or participate in grant related meetings such as field reviews and granting agency updates. Meetings may be in-person or phone conferences. Identify the need for and assist City with administrative requirements such as enactment of resolutions and agreements.

#### **4. SELECTION PROCESS**

The City qualifications review panel will assess each SOQ submission according to Attachment B, Consultant Rating Form. Consultants with total scores over eighty (80) points will be included on the prequalified list of Grant Development and Administration Services Consultants.

#### **5. SELECTION CRITERIA**

Some of the criteria for selection of the consultant team for this project are listed below, not necessarily in order of importance:

- Prior experience performing similar work
- Qualifications of key staff persons who will carry out the work
- Work program for carrying out the assignments and ability to adhere to schedules and budgets
- Ability to provide the range of desired services
- Special knowledge material to the work and its execution
- Firm's approach to effectively providing services outlined in this RFQ
- Previous success in procuring and administering grant funding from a variety of granting agencies and organizations
- Firm organization and location
- Ability to accept the City's Hold Harmless Indemnity requirement and to provide general and professional liability insurance in the required amounts, both as specified in the sample agreement
- References from public agencies to which the firm has provided some or all of services described in Section 3.

## 6. QUALIFICATIONS SUBMITTAL, INSTRUCTIONS AND FORMAT

Statements of Qualifications (SOQ) submittals are due by noon on Tuesday, February 9<sup>th</sup>, 2016. Submittals may be mailed or delivered to City of Cupertino, City Hall, Public Works Department, 10300 Torre Avenue, Cupertino, CA 95014, Attention: John Raaymakers, labeled: Grant Development and Administration Services Request for Qualifications. Submit two (2) printed and bound copies (8-1/2" x 11") and an electronic copy in pdf format. No e-mailed or faxed submittals will be accepted. Two sided copies are acceptable and encouraged. Late, e-mailed, or faxed submittals will be *immediately* considered non-responsive without further review and eliminated from consideration. Questions may be directed to John Raaymakers, Public Works Project Manager, at 408-777-3354, or via e-mail, [johnr@cupertino.org](mailto:johnr@cupertino.org)

The City reserves the right to reject any or all submittals, waive any irregularities, and select firms which, in its opinion, best serve the City's interests. The Consultant is responsible for *all* costs associated with the Statement of Qualifications submission.

The qualifications submittal shall not exceed fifteen (15) sheets of paper (30 pages double sided), excluding table of contents, cover letter, resumes for key personnel, grant application samples, and any promotional materials. The City prefers a quality submission over quantity and succinct, responsive proposals are welcomed. Submissions will not be returned.

All Consultant SOQ submissions shall provide the following general information: Business type (corporation, partnership, sole proprietorship), firm's organization structure, background, general qualifications, licensed professionals, licensed subconsultants, and recent experience with grant programs in California, particularly in the San Francisco Bay area.

### **Additional specific required information:**

- a. **An original, wet signed cover letter with an overview of qualifications, point of contact, phone number, e-mail, and including a statement that the Consultant accepts the attached City of Cupertino standard consultant agreement, including specifically listing City's Hold Harmless Indemnity requirements and insurance coverage requirements, without modification.**
- b. Location of the office(s) where the services will be performed.
- c. Special firm knowledge, qualifications, and capabilities.

- d. Number of years that the firm has been in existence.
- e. Principal staff and key personnel resumes including professional license information. Relevant information includes related public sector experience; dates, approximate project values and duties/responsibilities. Firm personnel shall be referenced to personnel resumes included in an appendix.
- f. Provide three (3) samples of grant development and application/proposal efforts which your firm has conducted, including examples of funded proposals, preferably of types listed in Section 1. These should be included as an appendix.
- g. Provide a minimum of three (3) references from California cities or state governmental agencies for which you have provided grant research, writing, and/or administrative services. Include the name of the organization, a description of the work performed, and the name, phone number, and e-mail address of the contact person.
- h. Provide a detailed description of your organization's approach to performing the following grant services:
  - 1. Analyzing the needs of a public entity and determining potential grant funding sources
  - 2. Identifying sources of grant funding available to municipal government
  - 3. Obtaining grant funding for public agency projects and programs
  - 4. Grant administration including application/proposal submittal, release of fund processes, reimbursement invoicing, project close-out, and audit support.
  - 5. General advisory assistance with program regulations and implementation
  - 6. Other services required for grant implementation and compliance.
- i. Provide a list of subconsultants that may be used along with their resume, principal staff, and qualifications relative to their individual discipline.
- j. Provide current labor category rate schedule valid for the approximately two (2) year qualification period.
- k. Confirmation that the required City standard /insurance levels are acceptable.

## **7. PREQUALIFIED LIST AND INTERVIEWS**

Qualified Consultants shall remain on the City's list for an approximately two (2) year period. The City, *at its sole discretion*, will select Consultants from the list based on (1) the best fit for a particular project (2) volume of existing City work, and (3) past performance on City/public projects.

In certain cases, the City may request that several firms on the prequalified list participate in a project specific interview to determine the "best fit" among firms with similar qualifications. The City will provide interview invitations and selection information on a project specific basis as the need occurs. All consultant costs associated with the project interview are the consultant's responsibility.

The City reserves the right to reject any and all consultants.

The City reserves the right to issue a master services agreement with one or more prequalified firms.

Business License Requirements: The consultant and their subconsultants must hold or obtain business licenses in the City for any work within City limits.

## **8. PROFESSIONAL SERVICES PROPOSAL**

Consultants selected for *a specific project* shall submit a professional services proposal in response to a City Request for Proposal. Each consultant proposal shall include a detailed cost breakdown of the total proposed fee, including any subconsultant work, by proposed hours and rates, broken down by task, and any additional costs anticipated to complete the project. The proposal shall be based on project fact finding with the City and the final scope of services definition. The final consultant project scope and fee shall be a negotiated agreement using the Consultant's professional services proposal as the basis of estimate (BOE).

Prior to negotiating a contract with the selected firm for a particular project assignment, City will ask the proposer to submit the expected level of services to be provided by each subconsultant, broken down by task or phase and including the corresponding fees.

If the City starts negotiations with a firm and is unsuccessful within 10 working days to negotiate an agreement, the City may initiate negotiations with another firm as needed.

## **9. CONTRACT REQUIREMENTS**

Once project scope and fee are negotiated, the Consultant shall execute a standard City of Cupertino professional consultant services contract defining basic contractual relationships

with attachments that specify the scope of services, compensation schedule, and deliverable schedule. A sample City contract is attached to this RFQ as Attachment A. Please note that insurance requirements are identified in the contract. *The Consultant must specifically agree, in writing, to accept the standard form of consultant agreement including specifically the City's Hold Harmless Indemnity requirements and insurance coverage requirements, without modification, in the SOQ submission cover letter (6a). Firms failing to provide this statement shall be considered 'non responsive' and eliminated from further consideration.*

## 10. ATTACHMENTS

The following attachments are provided with the RFQ package:

- 1) Attachment A, City of Cupertino Standard Consultant Agreement with general Exhibits A, B, and C.
- 2) Attachment B, Consultant SOQ Rating Form

**Attachment A**  
**City of Cupertino Consultant Agreement**

**AGREEMENT BETWEEN THE CITY OF CUPERTINO AND \_\_\_\_\_ FOR  
CONSULTANT SERVICES FOR \_\_\_\_\_**

THIS AGREEMENT, for reference dated \_\_\_\_\_, 20\_\_, is by and between CITY OF CUPERTINO, a municipal corporation (hereinafter referred to as "City"), and \_\_\_\_\_, a \_\_\_\_\_ (California corporation, partnership, sole proprietor, individual) whose address is \_\_\_\_\_ (hereinafter referred to as "Consultant"), and is made with reference to the following:

**RECITALS:**

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the Constitution and the statutes of the State of California and the Cupertino Municipal Code.

B. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

D. City and Consultant desire to enter into an agreement for \_\_\_\_\_ upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

**1. TERM:**

The term of this Agreement shall commence on the date this agreement is executed and shall terminate on \_\_\_\_\_, 20\_\_, unless terminated earlier as set forth herein.

**2. SERVICES TO BE PERFORMED:**

Consultant shall perform each and every service set forth in Exhibit A titled "Scope of Services" which is attached hereto and incorporated herein by this reference.

**3. SCHEDULE OF PERFORMANCE:**

The Services of Consultant are to be completed according to the schedule set out in Exhibit B, titled "Schedule of Performance ", which is attached hereto and incorporated herein by this reference.

**4. COMPENSATION TO CONSULTANT:**

The maximum compensation to be paid to Consultant under this agreement shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The rate of payment is set out in Exhibit C, titled "Compensation", which is attached hereto and incorporated herein.

Consultant shall furnish to City a detailed statement of the work performed for compensation during the term of this Agreement. Consultant may submit monthly invoices for interim progress payments during the course of each phase, clearly stating as a minimum the total Contract amount, amount paid to date, percent complete and amount due.

**5. TIME IS OF THE ESSENCE:**

Consultant and City agree that time is of the essence regarding the performance of this Agreement.

**6. STANDARD OF CARE:**

Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with City.

**7. INDEPENDENT PARTIES:**

City and Consultant intend that the relationship between them created by this Agreement is that of employer-independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by City to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

**8. IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Consultant assumes any and all responsibility for verifying the identity and employment authorization of all of his/her employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Consultant shall indemnify and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Consultant.

**9. NON-DISCRIMINATION:**

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Consultant agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Consultant or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

**10. PROJECT COORDINATION:**

CITY: Director of Public Works shall be representative of City for all purposes under this Agreement. \_\_\_\_\_ is hereby designated as the Director of Public Works' designee and Project Manager, and shall supervise the progress and execution of this Agreement.

CONSULTANT: Consultant shall assign a single Consultant Project Manager to have overall responsibility for the progress and execution of this Agreement for Consultant. Should circumstances or conditions subsequent to the execution of the Agreement require a substitute Consultant Project Manager for any reason, the Consultant Project Manager designee shall be subject to the prior written acceptance and approval of the City Project Manager. The designated Consultant Project Manager shall be

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**11. HOLD HARMLESS:**

Indemnification:

A. Claims for Professional Liability. Where the law establishes a standard of care for Consultant's professional services, and to the extent the Consultant breaches or fails to meet such established standard of care, or is alleged to have breached or failed to meet such standard of care, Consultant shall, to the fullest extent allowed by law, with respect to all services performed in connection with the Agreement, indemnify, defend, and hold harmless the City and its officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action or demands whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or Consultant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of City's choice, expert fees and all other costs and fees of litigation. Consultant shall not be obligated under this Agreement to indemnify City to the extent that the damage is caused by the sole negligence or willful misconduct of City, its agents or employees.

B. Claims for Other Liability. Consultant shall, to the fullest extent allowed by law, with respect to all services performed in connection with the Agreement indemnify, defend, and hold harmless the City and its officers, officials, agents, employees and volunteers from and against any and all liability, claims, actions, causes of action or demands whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, that arise out of, pertain to, or relate to the performance of this Agreement by Consultant or Consultant's employees, officers, officials, agents or independent contractors. Such costs and expenses shall include reasonable attorneys' fees of counsel of City's choice, expert fees and all other costs and fees of litigation.

**12. INSURANCE:**

On or before the commencement of the term of this Agreement, Consultant shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraph 12A, B, C, D and E. Such certificates, which do not limit Consultant's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Cupertino by certified mail, Attention: City Manager." It is agreed that Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

**A. COVERAGE:**

Consultant shall maintain the following insurance coverage:

- (1) **Workers' Compensation:**  
Statutory coverage as required by the State of California.
  
- (2) **Liability:**  
Commercial general liability coverage in the following minimum limits:

Bodily Injury:                 \$500,000  
  each occurrence  
  \$1,000,000  
  aggregate - all other

Property Damage:         \$100,000 each occurrence  
  \$250,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

- (3) **Automotive:**  
Comprehensive automotive liability coverage in the following minimum limits:  
Bodily Injury:                 \$500,000 each occurrence  
Property Damage:         \$100,000 each occurrence  
  or  
Combined Single Limit: \$500,000 each occurrence

- (4) **Professional Liability:**  
Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.

**B. SUBROGATION WAIVER:**

Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her insurance for recovery. Consultant hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or City with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of said Consultant may acquire against City by virtue of the payment of any loss under such insurance.

**C. FAILURE TO SECURE:**

If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

**D. ADDITIONAL INSURED:**

City, its City Council, boards and commissions, officers, employees and volunteers shall be named as an additional insured under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

**E. SUFFICIENCY OF INSURANCE:**

The insurance limits required by City are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

**13. CONFLICT OF INTEREST:**

Consultant warrants that it is not a conflict of interest for Consultant to perform the services required by this Agreement. Consultant may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

**14. PROHIBITION AGAINST TRANSFERS:**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to City by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

**15. SUBCONTRACTOR APPROVAL:**

Unless prior written consent from City is obtained, only those people and subcontractors whose names are included in this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in reasonable conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

**16. PERMITS AND LICENSES:**

Consultant, at his/her sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License, that may be required in connection with the performance of services hereunder.

**17. REPORTS:**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of City. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to City the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of City, and all publication rights are reserved to City. Consultant may retain a copy of any report furnished to the City pursuant to this Agreement.

B. All Reports prepared by Consultant may be used by City in execution or implementation of:

- (1) The original Project for which Consultant was hired;
- (2) Completion of the original Project by others;
- (3) Subsequent additions to the original project; and/or
- (4) Other City projects as appropriate.

C. Consultant shall, at such time and in such form as City may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by City.

F. Electronic and hard copies of Consultant's work product shall constitute the Project deliverables. Plans to be in CAD and PDF formats, and other documents to be in Microsoft Word and PDF formats. City holds Consultant harmless for any modifications to the documents.

**18. RECORDS:**

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement.

Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of City or its designees at all proper times, and gives City the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

If supplemental examination or audit of the records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit.

**19. NOTICES:**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Consultant to City shall be addressed to City at:

City of Cupertino  
10300 Torre Ave.  
Cupertino CA 95014  
Attention: \_\_\_\_\_

All notices, demands, requests, or approvals from City to Consultant shall be addressed to Consultant at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**20. TERMINATION:**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If such default is not cured within the time specified after receipt by Consultant from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may terminate the Agreement forthwith by giving to the Consultant written notice thereof.

City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Consultant as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

In the event of termination, Consultant shall deliver to City, copies of all reports, documents, and other work performed by Consultant under this Agreement.

**21. COMPLIANCES:**

Consultant shall comply with all state or federal laws and all ordinances, rules and regulations enacted or issued by City.

**22. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.)

Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Santa Clara, State of California.

**23. ADVERTISEMENT:**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

**24. WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**25. INTEGRATED CONTRACT:**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Consultant.

**26. GIFTS:**

A. Consultant is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in City Administrative Procedures.

B. Consultant agrees not to offer any City officer or designated employee any gift prohibited by the Administrative Procedures.

C. The offer or giving of any prohibited gift shall constitute a material breach of this Agreement by Consultant. In addition to any other remedies, City may have in law or equity, City may terminate this Agreement for such breach as provided in Section 20 of this Agreement.

**27. INSERTED PROVISIONS:**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

**28. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

P.O. No.: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed.

**CONSULTANT**

**CITY OF CUPERTINO**  
A Municipal Corporation

[Name of Consultant]

By \_\_\_\_\_

By \_\_\_\_\_

Timm Borden, Director of Public Works

Name \_\_\_\_\_

Date \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Tax I.D. No.: \_\_\_\_\_

APPROVED AS TO FORM:

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Randy Hom, City Attorney

ATTEST:

\_\_\_\_\_  
Grace Schmidt, City Clerk

Contract Amount: \_\_\_\_\_

Account No. : \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

CONSULTANT shall perform grant related work, including research, development, and administration services as detailed in the following sections related to various construction projects in Cupertino.

**SECTION 1.**

**GENERAL**

- A.** General PROJECT Description: The PROJECT involves providing grant related services. Services may include but are not limited to (*services*). The projects include: (*project title(s)*).
- B.** General Performance Requirements:
1. The performance of all services by CONSULTANT shall be to the satisfaction of the CITY, in accordance with the express terms hereof, including but not limited to the terms set out in detail in this scope of services and the standard of care provisions contained in this AGREEMENT.
  2. CONSULTANT shall be responsible for coordinating the work of all consultants and contractors, as needed or as directed by the CITY. CONSULTANT shall schedule meetings and prepare meeting agendas and minutes for all PROJECT meetings during the execution of this agreement under the scope of work. All minutes of meetings are due to the CITY within five (5) working days after the meeting. CONSULTANT shall provide copies of such documentation to the CITY, and as directed by the CITY, to other appropriate agencies and entities.
  3. CONSULTANT shall designate and provide to the CITY the names of their team members for the PROJECT. The team members shall be satisfactory to the CITY. CONSULTANT shall not substitute any team members without the prior approval of the CITY. CITY retains the right to reject team members assigned by CONSULTANT or require replacement of team members.
  4. CONSULTANT shall manage its SUBCONSULTANTS, and administer the PROJECT. CONSULTANT shall consult with the CITY, research applicable information, and communicate with members of the PROJECT team.
- C.** CONSULTANT shall effectively manage the assigned services for the projects for the efficient, progressive, and proactive delivery of each task. For each assigned project, the CONSULTANT may provide any or all of the following tasks and subtasks under Section 2, as each specific project requires.

**SECTION 2.**

**TASKS**

Task 1 – *(task title)*

Task 2 – *(task title)*

Task 3 – Additional Services

1. Services provided by CONSULTANT that are different from or in addition to those described herein are being included in the scope of Basic Services are referred to as “Additional Services”. No Additional Services shall be performed without the prior written authorization of the CITY. No compensation shall be due from the CITY to the CONSULTANT for any Additional Services provided or performed by the CONSULTANT without the prior written authorization of the CITY.
2. Compensation to the CONSULTANT for Additional Services directed and authorized by the CITY shall be on the basis of either: 1) actual and reasonable time of the CONSULTANT’s personnel necessary to complete the authorized Additional Service computed in accordance with the Rate Schedule attached to this Agreement; or 2) a fixed price mutually agreed upon by the CITY and the CONSULTANT. The forgoing notwithstanding, if Additional Services authorized by the CITY result from the neglect of CONSULTANT or CONSULTANT’s default under this Agreement, CONSULTANT shall complete Additional Services at no cost to the CITY.

**EXHIBIT B**  
**SCHEDULE OF PERFORMANCE**

CONSULTANT shall complete all work by *(date)*.

The following sets forth the distribution of CONSULTANT's Schedule of Performance for each project. The CITY may approve in writing the extension of any date set in this Exhibit.

PROJECT No. 1: *(project name)*

Task #1:	<i>(task)</i>	# weeks after Notice to Proceed (NTP) for this phase
Task#2:	<i>(task)</i>	# weeks after Notice to Proceed (NTP) for this phase
Task #3:	Additional Services	When authorized to Proceed on task

PROJECT No. 2: *(project name)*

Task #1:	<i>(task)</i>	# weeks after Notice to Proceed (NTP) for this phase
Task#2:	<i>(task)</i>	# weeks after Notice to Proceed (NTP) for this phase
Task #3:	Additional Services	When authorized to Proceed on task

These are estimated start times for each task.

**EXHIBIT C**  
**COMPENSATION**

**A. Maximum Compensation**

The CITY agrees to compensate CONSULTANT for professional services performed in accordance with the terms and conditions of this AGREEMENT. The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including both payment for professional services, additional services and reimbursable expenses, shall not exceed (*spelled out*) DOLLARS (\$ XXX,XXX).

CONSULTANT agrees that it shall perform all of the services set forth in Exhibit A of this AGREEMENT, except for additional services required pursuant to Section 2, TASKS and inclusive of reimbursable expenses, for the maximum not to exceed amount of (*spelled out*) DOLLARS (\$ XXX,XXX). The maximum amount of Additional Services are authorized under Section F of this EXHIBIT C is (*spelled out*) DOLLARS (\$ XX,XXX).

**B. Method of Payment**

For Task Nos. 1 through 3 CONSULTANT shall, during the term of this AGREEMENT, invoice the CITY monthly based upon a percentage of completion of each task set forth below in the Payment Schedule for services performed, and reimbursable expenses incurred if applicable, in completing that task under this AGREEMENT (Hereinafter "Invoice"). Provided CONSULTANT has completed the services and incurred the reimbursable expenses covered by the Invoice in accordance with the provisions of this AGREEMENT, as determined by the CITY, the CITY shall pay CONSULTANT the amount shown on the Invoice within thirty (30) working days of receipt of the Invoice.

The Invoice shall be based on the percentage of the task completed, and it shall describe the work completed during the Invoice period in accordance with the Payment Schedule set forth below. The Invoice shall be broken out per project as listed on the Payment Schedule. The Invoice shall list work completed and reimbursable expenses if applicable, in accordance with the Payment Schedule set forth below. CONSULTANT also shall include supporting documents to verify completed work and for any reimbursable expenses. The Invoice shall include sufficient detail to satisfy grant requirements, funding agreements and financial audits. The Invoice shall also show the total to be paid for the Invoice period.

**C. Payment Schedule**

The Payment Schedule for this AGREEMENT shall be as follows:

PROJECT No. 1: *(project name)*

	<u>Task Description</u>	<u>Task Compensation</u>
Task #1:	<i>(task)</i>	\$ XXX
Task #2:	<i>(task)</i>	\$ XXX
Task #3:	Additional Services	\$ XXX
	TOTAL	\$ XXXX

PROJECT No. 2: *(project name)*

	<u>Task Description</u>	<u>Task Compensation</u>
Task #1:	<i>(task)</i>	\$ XXX
Task #2:	<i>(task)</i>	\$ XXX
Task #3:	Additional Services	\$ XXX
	TOTAL	\$ XXXX

**TOTAL OF PROJECTS:**

Project No. & Name	Total Per Project Compensation
Project No. 1: <i>(project name)</i>	\$ XXXX
Project No. 2: <i>(project name)</i>	\$ XXXX
<b>TOTAL AGREEMENT AMOUNT</b>	<b>\$ XXXXX</b>

CONSULTANT shall not exceed any of the specified budget amounts for any Task without prior written authorization from the CITY. The CITY may approve in writing the transfer of budget amounts between any of the Tasks listed above provided the total AGREEMENT amount does not exceed *(spelled out)* DOLLARS (\$ XXX,XXX).

**D. Subconsultant Services**

CONSULTANT is directly responsible for any payment for SUBCONSULTANT work on this PROJECT. SUBCONSULTANT work on this PROJECT is included in the Payment Schedule shown above and shall be billed to the CITY by CONSULTANT as part of the Basic Services.

**E. Reimbursable Expenses**

Reimbursable expenses are included in CONSULTANT's maximum compensation, including, but not limited to, any expenses related to CONSULTANT's tasks. There are no separate reimbursable expenses for Basic Services performed under any Task of EXHIBIT A.

**F. Additional Services**

CONSULTANT shall not perform Additional Services without prior written authorization of the CITY. Additional Services shall be separately negotiated to be paid on a lump sum or a time and material basis at the rates set forth herein, as authorized by the CITY. The CITY has set aside the sum of (*spelled out*) DOLLARS (\$ XX,XXX) for the payment of Additional Services. The CITY shall not authorize and CONSULTANT shall not perform any Additional Services that result in charges in excess of the above amount.

CONSULTANT shall submit an Invoice to the CITY for payment on a monthly basis for authorized Additional Services rendered during the previous month. In the event Additional Services are authorized, CONSULTANT shall submit Invoices in accordance with the CONSULTANT hourly rate schedule attached to this EXHIBIT C. The rates shown in the EXHIBIT C-1 shall stay in effect during the full term of the contract. The CITY shall pay Additional Services Invoices as provided in this EXHIBIT C.

**EXHIBIT C-1**

**CONSULTANT HOURLY RATES FOR ADDITIONAL SERVICES**

Project Manager	\$XXX/hr.
Technician	\$XXX/hr.
Office Engineer	\$XXX/hr.

CITY OF CUPERTINO  
Attachment B - Consultant Rating Form  
GRANT DEVELOPMENT AND ADMINISTRATION SERVICES

Consultant: \_\_\_\_\_ Review Date: \_\_\_\_\_

Panel Member: \_\_\_\_\_

1	Consultant SOQ responsive to submission criteria. (0-10)	<input type="checkbox"/>
2	Consultant provided an original, wet signed, cover letter of interest with all required information. <u>Include statement accepting the City standard form consultant agreement, including hold harmless indemnity and insurance requirement.</u> (0 or 5)	<input type="checkbox"/>
3	Consultant has qualified personnel and subconsultants available to perform the scope of services. (0-15)	<input type="checkbox"/>
4	Consultant has experience directly related to the potential scope of services. (0-15)	<input type="checkbox"/>
5	Consultant provided (3) representative grant proposal or application samples. (0-15)	<input type="checkbox"/>
6	Consultant provided (3) public agency references with all required contact information. (0-15)	<input type="checkbox"/>
7	Consultant has provided their approach to providing the services outlined in this RFQ (0-10)	<input type="checkbox"/>
8	Consultant provided labor rate schedules valid for the two year qualification period. (0 or 10)	<input type="checkbox"/>
9	<u>Consultant accepts the City of Cupertino standard form consultant agreement, including hold harmless indemnity and insurance requirements and general attachments, without modification.</u> Note: a zero score shall eliminate the consultant from further consideration. (0 or 5)	<input type="checkbox"/>
<b>Total Score</b>		<input type="checkbox"/>